

## Department of State

## § 122.2

emissivity in the microwave, infrared or ultraviolet spectra, except when specially used for thermal control of satellites.

(c) Specially designed software or databases for analysis of signature reduction.

(d) Specially designed radar cross section measurement systems (see §121.1, Category XI(a)(3)).

### ITEM 18—CATEGORY II

Devices for use in protecting rocket systems and unmanned air vehicles against nuclear effects (e.g. Electromagnetic Pulse (EMP), X-rays, combined blast and thermal effects), and usable for the systems in Item 1, as follows (see §121.1, Category IV (c) and (h)):

(a) “Radiation Hardened” “microcircuits” and detectors (see §121.1, Category XI(c)(3) Note: This commodity has been formally proposed for movement to category XV(e)(2) in the near future).

(b) Radomes designed to withstand a combined thermal shock greater than 1000 cal/sq cm accompanied by a peak over pressure of greater than 50 kPa (7 pounds per square inch) (see §121.1, Category IV(h)).

### NOTE TO ITEM 18(a)

A detector is defined as a mechanical, electrical, optical or chemical device that automatically identifies and records, or registers a stimulus such as an environmental change in pressure or temperature, an electrical or electromagnetic signal or radiation from a radioactive material. The following pages were removed from the final ITAR for replacement by DDTC’s updated version §6(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(l)), as amended. In accordance with this provision, the list of MTCR Annex items shall constitute all items on the U.S. Munitions List in §121.16.

[58 FR 39287, July 22, 1993, as amended at 71 FR 20539, Apr. 21, 2006]

## PART 122—REGISTRATION OF MANUFACTURERS AND EXPORTERS

### Sec.

122.1 Registration requirements.

122.2 Submission of registration statement.

122.3 Registration fees.

122.4 Notification of changes in information furnished by registrants.

122.5 Maintenance of records by registrants.

**AUTHORITY:** Secs. 2 and 38, Public Law 90-629, 90 Stat. 744 (22 U.S.C. 2752, 2778); E.O. 11958, 42 FR 4311; 1977 Comp. p. 79, 22 U.S.C. 2651a.

**SOURCE:** 58 FR 39298, July 22, 1993, unless otherwise noted.

### § 122.1 Registration requirements.

(a) Any person who engages in the United States in the business of either manufacturing or exporting defense articles or furnishing defense services is required to register with the Directorate of Defense Trade Controls. For the purpose of this subchapter, engaging in the business of manufacturing or exporting defense articles or furnishing defense services requires only one occasion of manufacturing or exporting a defense article or furnishing a defense service. Manufacturers who do not engage in exporting must nevertheless register.

(b) *Exemptions.* Registration is not required for:

(1) Officers and employees of the United States Government acting in an official capacity.

(2) Persons whose pertinent business activity is confined to the production of unclassified technical data only.

(3) Persons all of whose manufacturing and export activities are licensed under the Atomic Energy Act of 1954, as amended.

(4) Persons who engage only in the fabrication of articles for experimental or scientific purpose, including research and development.

(c) *Purpose.* Registration is primarily a means to provide the U.S. Government with necessary information on who is involved in certain manufacturing and exporting activities. Registration does not confer any export rights or privileges. It is generally a precondition to the issuance of any license or other approval under this subchapter.

[58 FR 39298, July 22, 1993, as amended at 71 FR 20540, Apr. 21, 2006]

### § 122.2 Submission of registration statement.

(a) *General.* The Department of State Form DS-2032 (Statement of Registration) and the transmittal letter required by paragraph (b) of this section must be submitted by an intended registrant with a payment (by check or money order) payable to the Department of State of one of the fees prescribed in §122.3(a) of this subchapter. Checks and money orders must be in

### § 122.3

U.S. currency, and checks must be payable through a U.S. financial institution. In addition, the Statement of Registration and transmittal letter must be signed by a senior officer who has been empowered by the intended registrant to sign such documents. The intended registrant also shall submit documentation that demonstrates that it is incorporated or otherwise authorized to do business in the United States. The Directorate of Defense Trade Controls will notify the registrant if the Statement of Registration package is incomplete.

(b) *Transmittal letter.* A letter of transmittal, signed by an authorized senior officer of the intended registrant, shall accompany each Statement of Registration.

(1) The letter shall state whether the intended registrant, chief executive officer, president, vice-presidents, other senior officers or officials (e.g. comptroller, treasurer, general counsel) or any member of the board of directors:

(i) Has ever been indicted for or convicted of violating any of the U.S. criminal statutes enumerated in §120.27 of this subchapter; or

(ii) Is ineligible to contract with, or to receive a license or other approval to import defense articles or defense services from, or to receive an export license or other approval from, any agency of the U.S. Government.

(2) The letter shall also declare whether the intended registrant is owned or controlled by foreign persons (as defined in §120.16 of this subchapter). If the intended registrant is owned or controlled by foreign persons, the letter shall also state whether the intended registrant is incorporated or otherwise authorized to engage in business in the United States.

(c) *Definition.* For purpose of this section, *ownership* means that more than 50 percent of the outstanding voting securities of the firm are owned by one or more foreign persons. *Control* means that one or more foreign persons have the authority or ability to establish or direct the general policies or day-to-day operations of the firm. Control is presumed to exist where foreign persons own 25 percent or more of the outstanding voting securities if no U.S.

### 22 CFR Ch. I (4–1–07 Edition)

persons control an equal or larger percentage.

[58 FR 39298, July 22, 1993, as amended at 69 FR 70889, Dec. 8, 2004; 71 FR 20540, Apr. 21, 2006]

#### § 122.3 Registration fees.

(a) A person who is required to register may do so for a period up to 2 years upon submission of a completed Form DS-2032, transmittal letter, and payment of a fee as follows:

1 year .....	\$1,750.00
2 years .....	\$3,500.00

(b) *Expiration of registration.* A registrant must submit its request for registration renewal at least 30 days prior to the expiration date.

(c) *Lapse in registration.* A registrant who fails to renew a registration and, after an intervening period, seeks to register again must pay registration fees for any part of such intervening period during which the registrant engaged in the business of manufacturing or exporting defense articles or defense services.

[58 FR 39298, July 22, 1993, as amended at 62 FR 27497, May 20, 1997; 69 FR 70889, Dec. 8, 2004; 70 FR 50959, Aug. 29, 2005]

#### § 122.4 Notification of changes in information furnished by registrants.

(a) A registrant must, within five days of the event, notify the Directorate of Defense Trade Controls by registered mail if:

(1) Any of the persons referred to in §122.2(b) are indicted for or convicted of violating any of the U.S. criminal statutes enumerated in §120.27 of this subchapter, or become ineligible to contract with, or to receive a license or other approval to export or temporarily import defense articles or defense services from any agency of the U.S. government; or

(2) There is a material change in the information contained in the Statement of Registration, including a change in the senior officers; the establishment, acquisition or divestment of a subsidiary or foreign affiliate; a merger; a change of location; or the dealing in an additional category of defense articles or defense services.

(b) A registrant must notify the Directorate of Defense Trade Controls by